

UNITED STATES DISTRICT COURT
for the DISTRICT OF NEW HAMPSHIRE

U.S. DISTRICT COURT
DISTRICT OF N.H.
FILED

Matthew D. Bobola

v.

William Wrenn,
Helen Hanks,
Bernice Campbell,
Dr. Englander,
Lisa Savage,
Chris Kench.

15-FP-39
2015 JAN 29 A.H. 54

CIVIL COMPLAINT

This is a civil complaint alleging deliberate indifference to treatment needs for serious medical conditions, constituting a violation of plaintiff's federal civil rights and cruel and unusual punishment, and a tort of negligence. Plaintiff seeks a jury trial, declaratory relief, injunctive relief and damages.

JURISDICTION AND VENUE

This Court has jurisdiction pursuant to 42 U.S.C. §1983, 28 U.S.C. §§1331-1332. Plaintiff seeks declaratory and injunctive relief as provided under 28 U.S.C. §§2201-2202 and Title 42. This court has jurisdiction over state tort claims under 28 U.S.C. §1367(a) arising from the same set of facts as the constitutional civil rights claims.

Venue is in this District since all acts occurred in New Hampshire.

PARTIES

1. Plaintiff Matthew D. Bobola is inmate #53353 in the New Hampshire State Prison ("NHSP") at address: NHSP #53353, P.O. Box 14, Concord NH 03302-0014.

2. Defendant William Wrenn is Commissioner of the New Hampshire Department of Corrections ("DOC") with a work address of P.O. Box 1806, Concord, NH 03302. He oversees all prison operations and management in the state. The plaintiff raised the complaints contained herein to Commissioner Wrenn in a GRIEVANCE. He is sued in his individual and official capacities.

3. Defendant Helen Hanks, during the time relevant to this COMPLAINT, was the administrator in charge of the prison infirmary. She is now Assistant DOC Commissioner with a work address of P.O. Box 1806, Concord, NH 03302. The

COMPLAINT

Page 2

plaintiff's GRIEVANCE (addressed to the prison Warden) was diverted to Helen Hanks to deal with, and she failed to act. She falsely claimed that plaintiff was a "no-show" for scheduled "ortho" treatment, which never occurred. She is sued in her individual and official capacities.

4. Defendant Bernice Campbell is the prison physical therapist with a work address of P.O. Box 14, Concord, NH 03302-0014. She repeatedly refused to treat the plaintiff's conditions, instead offering treatments for conditions the plaintiff did not have. She is sued in her individual and official capacities.

5. Defendant Dr. Englander is the prison doctor with a work address of P.O. Box 14, Concord, NH 03302-0014. She failed to treat his conditions and made a false accusation that he had missed appointments as an apparent excuse for the non-treatment. She is sued in her individual and official capacities.

6. Defendant Lisa Savage is a prison nurse practitioner with a work address of P.O. Box 14, Concord, NH 03302-0014. She injected herself into this matter by intercepting a request slip to Dr. Englander and accused the plaintiff of "staff shopping" when he sent her a followup request. She is sued in her individual and official capacities.

7. Defendant Chris Kench is a designee of Defendant Wrenn with a work address of P.O. Box 1806, Concord, NH 03302. He responded to the GRIEVANCE to defendant Wrenn with: "We are satisfied that your issues are being properly addressed." He is sued in his individual and official capacities.

F A C T S

8. Plaintiff has two medical issues, (1) a broken scaphoid in his left wrist and (2) a torn ACL in his right knee. These were diagnosed BEFORE the plaintiff came to prison. See Affidavit Exhibit #1. Meetings with defendant Campbell about the broken scaphoid made it clear that the prison did not intend to treat this condition. Ex. 1, ¶12.

9. Treatment for the torn ACL commenced before the plaintiff came to prison through the use of a "hinged knee brace" that prevented any side-to-side knee movement or twisting. It effectively encased the knee in a hinged plastic case that allowed for proper movement and prevented detrimental movement. That type of treatment is not an option at the prison. Ex. 1, ¶13-4.

10. The plaintiff appealed the denial of treatment for his issues to defendant Savage by Inmate Request Slip ("IRS") dated 7/28/14. Exhibit 2. A

COMPLAINT

Page 3

month later the response stated that a "knee sleeve" was all that was available and that the plaintiff's "staff shopping behavior is unacceptable." Id.

11. The plaintiff also appealed the denial of treatment for his issues to defendant Englander by Inmate Request Slip ("IRS") dated 7/29/14. Exhibit 3. She noted that defendant Savage had seen the plaintiff and that he had been a "no show" to two "ortho" appointments, the latter "despite 3 calls to you." Id. This claim is completely false. Had the plaintiff missed a medical appointment he would have been given a Disciplinary Report ("DR") and charged \$5 for the missed appointment, a rule the DOC never fails to take advantage of due to its ongoing fiscal problems. See e.g. Ex. 1, ¶1.

12. The prison provides "medical blankets" for positioning of injured or painful limbs and had done so for the plaintiff, but discontinued them. He requested them to be reissued by IRS to defendant Campbell dated 8/18/14. Exhibit 4. Her response was, "Not a medical need." Id. Given that there is virtually no expense for the issuance of medical blankets (which are tattered beyond all other use), it appeared clear that the plaintiff's complaints about his medical conditions had generated some animosity among medical staff.

13. The plaintiff appealed to Warden Gerry on 9/2/14 and attached exhibits 1 through 4 to the GRIEVANCE. Exhibit 5. The 10/7/14 response was from Helen Hanks (then director of forensic services, which included the prison infirmary). Rather than address the medical issues, she recounted the false accusation of his having missed appointments (possibly implying that further treatment was thereby forfeit). Id. She ended with, "Please comply with your treatment to best assist you," which begged the question, "What treatment?"

14. The plaintiff sent a GRIEVANCE dated 10/7/14 to Commissioner Wrenn, to which he attached exhibits 1 through 5. Exhibit 6. Defendant Kench responded claiming that, "We are satisfied that your issues are being properly addressed." Id. Since NONE of the plaintiff's "issues" have been addressed, this prompted the plaintiff to pursue one attempt to resolve this matter:

15. Plaintiff sent an IRS to Helen Hanks dated 10/21/14 explaining (1) he never missed ANY appointments, (2) that Chris Kench was under the impression that he was receiving treatment, and (3) that he was getting no treatment for either medical issue. Exhibit 7. Helen Hanks gave the IRS to defendant Campbell to answer and it stated "Awaiting MD Eval & Recommendations" Id.

16. After waiting two months from the answer to Exhibit 7 without any action having been taken on the part of medical staff to examine, evaluate,

COMPLAINT

Page 4

treat, or recommend ANYTHING, plaintiff sent a letter to the DOC counsel in the Attorney General's office giving them another two weeks to make SOME effort at dealing with these medical issues. Exhibit 8. That two weeks has expired without any action, so this suit has been filed.

17. The medical staff defendants in this matter ALL examined the plaintiff and ALL failed to provide anything approaching treatment for the medical issues. One commented on X-Ray results being "normal" (which would not have shown soft-tissue damage such as a torn ACL). Ex. 2. Each medical staffer appeared to be more concerned with collateral issues (missed appointments, staff shopping, etc) than with the plaintiff's medical issues. One determined that blankets were not a medical need to prevent a knee with a torn ACL from hyper-extending. Ex. 4. It seems clear that the medical staff have taken on an adversarial position with the plaintiff, and thus, further medical care will have to be Court-ordered.

CLAIMS FOR RELIEF

CLAIM #1: Deliberate indifference to serious medical needs in violation of the plaintiff's civil rights and right to be free from cruel and unusual punishment. The plaintiff was diagnosed with these medical needs prior to his incarceration and now the prison medical staff are refusing to acknowledge or treat them. Indeed, based on the final IRS response, "Awaiting MD Eval & Recommendations," the prison has failed to even acquire the necessary medical evaluation and recommendations.

CLAIM #2: Negligence (State tort). If the above identified medical malingering does not rise to the level of deliberate indifference it certainly constitutes medical negligence.

RELIEF REQUESTED

WHEREFORE,, the plaintiff requests this Honorable Court:

- a. ENTER Declaratory Judgment in plaintiff's favor;
- b. ORDER the DOC to have the plaintiff's medical needs EVALUATED and RECOMMENDATIONS acquired from medical professionals OUTSIDE of the prison (given apparent deliberate misdiagnosis and adversarial behaviors of all of the prison's medical staff);

COMPLAINT

Page 5

- c. ORDER the DOC to undertake these evaluations and recommendations within a strict time-line;
- d. ORDER the DOC to follow the recommendations made to the best of their abilities and within the security constraints of the prison, again within a strict time-line;
- e. AWARD monetary damages to the plaintiff for his pain and suffering to be determined by a jury against all defendants jointly and severally;
- f. AWARD monetary costs to the plaintiff to cover all of his printing and copying costs, filing fees for this action, and any costs he incurred in exhausting his administrative remedies and filing this suit; and
- g. GRANT such other and further relief as it deems fair and equitable.

Respectfully submitted,



Matthew D. Pobola, pro se
NHSP #53353
P.O. Box 14
Concord, NH 03302-0014

RECEIVED

SEP 03 2014

NHSP/M
WARDEN'S OFFICEEXHIBIT 1.A F F I D A V I T

I, Matthew D. Bobola, make the following statements under oath:

1. I have been trying diligently to deal with TWO medical problems at the New Hampshire State Prison, and have not received anything approaching valid treatment for either issue. To make matters worse, medical staff have claimed that I was a NO SHOW for (two) appointments, when there is absolutely NO PROOF of that. I have NEVER received an appointment slip for which I did not attend the appointment, and if I had, I would have been given a DISCIPLINARY REPORT and charged for the missed appointment. Claims that medical called my unit to have me sent over are equally MERITLESS, because in a prison it is INCONCEIVABLE that staff would be unable to locate an inmate or order him to go to medical.

2. I have two medical issues: FIRST, I have a broken scaphoid in my LEFT wrist, which was examined by Dr. Jinsong Wang who said the proper course of treatment was SURGERY. I have had multiple meetings with Bernie Campbell who has repeatedly tried to convince me that surgery is not a treatment option. I am LEFT handed and the broken bone makes it difficult to write. Bernie gave me a wrist brace (with the wooden brace removed) and all it does is makes it harder for me to write and increases the pain I am already in.

3. My SECOND medical issue is a torn ACL in my RIGHT knee. This condition contributed to my falling on a wet floor in H-Building in November 2013, which made the problem worse. My knee was examined by Dr. Marc Michaud who prescribed a "hinged knee brace" and, if that didn't bring about the proper healing, then surgery was the only other option. I wore such a brace for some time and it provided me with the proper lateral and twist support.

4. The medical staff here has been completely unwilling to provide anything remotely effective for my knee issue. I was given a rubber knee brace which does nothing to prevent lateral or twist motion. In fact, it causes a lot of pain, cuts off the circulation to my foot and causes my foot to swell up after using it. I have asked for blankets to support my knee while I ice it and while I am sleeping and have gotten "NOT A MEDICAL NEED" as a response from Bernie Campbell (8/21/14 response to request slip).

5. My lawyer has told me to exhaust my available administrative remedies to see if treatment will be forthcoming. That is what I am now doing.

I swear upon oath that the facts related in the foregoing AFFIDAVIT are true and accurate to the best of my knowledge and belief.

Matthew Bobola
Matthew D. Bobola

Subscribed and sworn before me this 2nd day of September, 2014.

Tricia Ann Lynn
Notary Public/Justice of the Peace

TRICIA ANN LYNN
NOTARY PUBLIC
NEW HAMPSHIRE
MY COMMISSION EXPIRES APRIL 3, 2018

INMATE REQUEST SLIP

Submit this request to the Unit Supervisor, Security Lieutenant, or CC/CM. Your Unit Supervisor, Security Lieutenant, or CC/CM will help you resolve the issue or it will be forwarded to the appropriate person. Unit Supervisor, Security Lieutenant, or CC/CM will be forwarded to you.

TO: Unit Supervisor, Security Lieutenant, CC/CM

DATE: 7/29/14

FROM: Bobola

Last Name

Matthew

First Name

D

Middle Initial

ID #: 53353

Facility

5PU

Housing Unit

F09

Cell

Work/Shift

INMATE REQUEST: Dear Miss Savage you intercepted a request slip to DR Engler. I had already discussed this matter with Mincambal and was told she could not give me the recommended treatment by my DR before my prison sentence. I ask that you review my medical file regarding my fall this winter and my need for the correct knee brace for which my knee is now locking and in now feeling pain from under my knee cap as well as the inner side the swelling has not gone down in more than a month and I feel pain with every step. I am also asking for a cortisone shot for the pain in my knee. I have also recently received a DR report saying that there is a foreign body in my forearm why was this not seen in the ex-rays from January this year?

(If you need more space, use plain paper.)

Inmate Signature

TO: Miss Savage

DATE: 7/29/14

FROM: Unit Supervisor, Security Lieutenant, or CC/CM

REMARKS:

MEDICAL RECORDS

RECEIVED ON

AUG 01 2014

BY:

Staff Signature

FROM:

Staff Member Name/Office

DATE: 8/20/14

REMARKS:

Reviewing your request & discussing with Dr. Engler and PT the refusal of knee sleeve is what is available.

The staff shopping behavior is unacceptable.

Your knee issue has been addressed thru PT

Received By

Staff Signature

Inmate Signature

INMATE REQUEST SLIP

Submit this request to the Unit Supervisor, Security Lieutenant, or CC/CM. Your Unit Supervisor, Security Lieutenant, or CC/CM will help you resolve the issue or it will be forwarded to the appropriate person. Unit Supervisor, Security Lieutenant, or CC/CM will be forwarded to you.

TO: Unit Supervisor, Security Lieutenant, CC/CM

DATE: 7/29/14

FROM: Bobo/9 Matthew D

ID #: 53353

Last Name

First Name

Middle Initial

Facility

Housing Unit

Cell

Work/Shift

INMATE REQUEST: I'm asking that you review my DR reports from
 DR Jason Wang and DR Michael that I have provided I'm asking
 for your because I feel constant pain with every step as well left little
 or know use of my left hand I am left handed this makes everything
 that much harder and is the number one reason for my
 attempted suicide

(If you need more space, use plain paper.)

TO: Lisa Savage

Inmate Signature

DATE: 7/29/14

FROM: Unit Supervisor, Security Lieutenant or CC/CM

REMARKS:

MEDICAL RECORDS
RECEIVED ON

AUG 01 2014

BY:

Staff Signature

FROM:

Staff Member Name/Office

DATE:

REMARKS:

Staff Signature

Received By

Inmate Signature

EXHIBIT 3.
Page 1 of 2

INMATE REQUEST SLIP

Submit this request to the Unit Supervisor, Security Lieutenant, or CC/CM. Your Unit Supervisor, Security Lieutenant, or CC/CM will help you resolve the issue or it will be forwarded to the appropriate person. Unit Supervisor, Security Lieutenant, or CC/CM will be forwarded to you.

TO: Unit Supervisor, Security Lieutenant, CC/CM

DATE: 7/29/14

FROM: Bobola

Matthew D

ID #: 53353

Last Name

First Name

Middle Initial

Facility

Housing Unit

Cell

Work/Shift

INMATE REQUEST: I am writing to you in hopes of getting your help. After slipping and falling this past winter, I have tried to get some help with the pain in my knee and wrist bracing for my left knee brace. This is an ACL brace unlike the sleeve type that Mr. Scambell from PT here at the prison has provided me that I don't have now do to property holdup. This sleeve type can not be worn when the knee is swollen if cut off the circulation to the foot and knee and provides no lateral support to the knee. Noting Dr. Michael report I would like to see him wear the ACL brace. This is to prevent the need of ACL reconstruction so now I'm left in pain from every step. I am worried that I have re-injured the meniscus again.

see form 2 This is pg 1 of 2

(If you need more space, use plain paper.)

Inmate Signature

TO: DR Engler

DATE: 7/29/14

FROM: Unit Supervisor, Security Lieutenant or CC/CM

REMARKS:

Favor

Staff Signature

FROM: DGE

Staff Member Name/Office

DATE: 8-14-14

REMARKS:

I note that you have already submitted IR's to Mr. Savage, who has already seen you.

I reviewed your recent and you were scheduled for out of 3/20/14 and were a No Show. In the 2nd time despite 3 calls to you - This was for a review. Received By

Staff Signature

Inmate Signature

PG 2

EXHIBIT 3.
Page 2 of 2

INMATE REQUEST SLIP

Submit this request to the Unit Supervisor, Security Lieutenant, or CC/CM. Your Unit Supervisor, Security Lieutenant, or CC/CM will help you resolve the issue or it will be forwarded to the appropriate person. Unit Supervisor, Security Lieutenant, or CC/CM will be forwarded to you.

TO: Unit Supervisor, Security Lieutenant, CC/CM

DATE: 7/29/14

FROM: Bobola Matthew D

ID #: 53353

Last Name

First Name

Middle Initial

Facility

Housing Unit

Cell

Work/Shift

INMATE REQUEST (PG 2) When I have asked for pain meds I have asked for a non narcotic pain reliever naproxen or alve has always worked the best but motrin bothers my stomach and dose little for pain in my knee never mind the pain in my wrist I am asking for an injection of Dexamethasone mixed with lidocaine to be injected in the flexor carpi radialis tendon sheath as this has been the only thing that has given me any relief of pain. I'm not even sure if this will even work as it has in the past. As it is now I have never experienced the lose of use that I have now. I am asking to be evaluated by an orthopedic DR I have provided all the DR reports from DR Jason Wang and DR Mark Meacham to Doc Medical

(If you need more space, use plain paper.)

Inmate Signature

TO: DR Engler

DATE: 7/29/14

FROM: Unit Supervisor, Security Lieutenant or CC/CM

REMARKS:

Forward

Staff Signature

FROM: Dorte
Staff Member Name/Office

DATE: 8-14-14

REMARKS:

I will be happy to change your motion to naproxen. By the way the injured lower back was presented at a time when you were actively working.

Staff Signature

Received By

Inmate Signature

EXHIBIT 4.

INMATE REQUEST SLIP

Submit this request to the Unit Supervisor, Security Lieutenant, or CC/CM. Your Unit Supervisor, Security Lieutenant, or CC/CM will help you resolve the issue or it will be forwarded to the appropriate person. Unit Supervisor, Security Lieutenant, or CC/CM will be forwarded to you.

TO: Unit Supervisor, Security Lieutenant, CC/CM

DATE: 8/18/14FROM: Bobola Matthew DID #: 53353

Last Name

First Name

Middle Initial

Facility

Housing Unit

Cell

Work/Shift

INMATE REQUEST: After asking to have my medical Blankets
Reissued to me I'm told that they were on Hold from
Medical can you please tell me how I can clear this up
The Blankets are a Big help to me when Icing my knee
(that alone happens at least 2 to 3 times a week)
and also keeps me from hyperextending my knee
when laying flat in bed

Thank you for your time

(If you need more space, use plain paper.)

Matthew Bobola
 Inmate Signature

TO: MedicalDATE: 8/18/14

FROM: Unit Supervisor, Security Lieutenant or CC/CM

REMARKS:

Staff Signature

 FROM: [Signature] DATE: 8/21/14
 Staff Member Name/Office

REMARKS:

NOT a medical need

[Signature]
 Staff Signature

Received By

[Signature]
 Inmate Signature

**GRIEVANCE FORM**

(See Reverse For Instructions)

RECEIVED EXHIBIT 5.

SEP 03 2014

NHSP/M
WARDEN'S OFFICE

RECEIVED
SEP 05 2014
NHDOC-M&F SERVICES

DEPARTMENT OF CORRECTIONS
STATE OF NEW HAMPSHIRE
P.O. Box 14
CONCORD, NEW HAMPSHIRE 03302

- TO: Warden Gerry
1. Date: 9/2/2014
2. GRIEVANT: Matthew D. Bobola 3. Number: 53353
4. Address: P.O. Box 14, RTU, Concord, NH 03302-0014
5. Brief Description of Grievance: Attached are three request slips (5 pages) and an affidavit showing the nightmare I have experienced with the prison medical department trying to get treatment for two WELL DOCUMENTED medical conditions that have been diagnosed by outside experts and had treatments prescribed. My biggest problem is that the medical staff have taken an adversarial position in their efforts to refuse treatment and even attempted to BLAME ME for their non-treatment of my conditions (see affidavit).
- I request that this problem be dealt with efficiently, professionally, and without the adversarial conduct I am now experiencing. THANK YOU.

Signature: Matthew Bobola
(You will be penalized if statement is untrue)

(Use Attachments if necessary.)

To: **DIRECTOR** (Warden)Date of Director's Action: 10/7/14

Director's Action: Dear Bobola,

We have referred you to ortho clinic which you have no showed twice. Please comply with your treatment to best assist you.

Respectfully

Authentication: J. Hanks

To: **COMMISSIONER**

Date of Commissioner's Action: _____

Commissioner's Action: _____

Authentication: _____

(FORWARD ALL THREE COPIES. WHITE WILL BE FILED IN OFFENDER RECORDS, CANARY TO RESPONDER AND PINK TO GRIEVANT.)

INSTRUCTIONS FOR USE OF GRIEVANCE FORM

1. Fill in date sent.
2. Fill in your name.
3. Fill in your number; for prisoners, and parolees your prison number; for probationers your social security number or driver's license number.
4. Prisoners fill in your housing assignment; others your mailing address.
5. Briefly describe your grievance. Use additional blank pages or attachments if necessary. Provide enough information so that the recipient can understand the problem.
6. Sign the form. You are cautioned that if investigation of your grievance discloses that you were untruthful or misrepresented the facts, you will be disciplined for that violation.
7. The form **MUST** be sent to the Warden if you are a prisoner. Parolees and probationers **MUST** send the form to the Director of Field Services. The Warden or Director of Field Services will respond within fifteen (15) working days of receipt of the form. If resolution or investigation will take longer than 15 days, you will be provided an interim reply.
8. If the response from the Warden or the Director of Field Services does not resolve the issue satisfactorily, you may then file the grievance with the Commissioner. The Commissioner will respond within twenty (20) days with a final or interim reply.
9. Prisoners **MUST** use request slips to attempt to resolve issues prior to submitting a grievance. ~~Grievances will not be accepted unless it is demonstrated that request slips have not worked or unless the grievance is a bonafide emergency or life-threatening situation. Attempts to by-pass the request slip system will simply be returned without action unless the grievance clearly shows earlier attempts to use the request slip system or that the situation is a bonafide emergency or life-threatening.~~
10. Grievances sent to the Commissioner by prisoners without evidence of the Warden's earlier action will be returned without action.
11. The grievance form may be used for second level appeals of disciplinary board results at the prison if the original appeal on a request slip was rejected in whole or in part under the following rules:
 - a. Only two types of appeals are grievable: (a) allegations of procedural violations stating what procedural or process errors were made; or, (b) allegations of sentence disproportionateness alleging that the sentence was excessive and stating the reasons why.
 - b. Questions relating to guilt or innocence or insufficiency or invalidity of evidence are NOT grievable at the second level (but they may be appealed at the first level on a request slip).
 - c. Minor board results may be appealed to the Administrator of Security on a request slip. If the Administrator's response does not satisfy the inmate he may appeal to the Warden on a grievance form. The Warden's response on a minor board is final.
 - d. Major board results may be appealed to the Warden on a request slip. If the Warden's response does not satisfy the inmate he may appeal to the Commissioner on a grievance form. The Commissioner's response on a major board is final.
 - e. Appeals must state clearly what is being appealed and the reasoning upon which the appeal is based.

**GRIEVANCE FORM**

(See Reverse For Instructions)

DEPARTMENT OF CORRECTIONS
STATE OF NEW HAMPSHIRE
P.O. Box 14
CONCORD, NEW HAMPSHIRE 03302

OCT 03 2014

COMMISSIONER OF CORRECTIONS

EXHIBIT 6.

RTU

- TO: Commissioner William Wrenn
1. Date: 10/7/2014
2. GRIEVANT: Matthew D. Bobola 3. Number: 53353
4. Address: P.O. Box 14, RTU, Concord, NH 03302-0014
5. Brief Description of Grievance: Attached are copies of my grievance to the WARDEN and the 6-pages of exhibits sent to him with the grievance. I have a broken bone in my wrist and a torn ACL, both of which have been diagnosed by competent medical personnel outside of the prison. Each of these problems has a clear, specific treatment regimen that the prison has failed (or refuses) to provide. Medical staff here have commenced a strategy of blaming me for their failures (falsely claiming missed appointments) and attacking my effort to get treatment (claiming I am "staff shopping"). Do I need to sue the prison and subpoena the medical staff to testify in Court in order to get proper treatment for these issues?

Signature: Matthew Bobola
(You will be penalized if statement is untrue)

(Use Attachments if necessary.)

To: **DIRECTOR** (Warden)

Date of Director's Action: _____

Director's Action: _____

Authentication: _____

To: **COMMISSIONER**Date of Commissioner's Action: 10/14/14

Commissioner's Action: The Grievance you sent to Warden Garry should have gone to Director Hanker. We are satisfied that your issues are being properly addressed.

Authentication: Chris Karch

(FORWARD ALL THREE COPIES. WHITE WILL BE FILED IN OFFENDER RECORDS, CANARY TO RESPONDER AND PINK TO GRIEVANT.)

INSTRUCTIONS FOR USE OF GRIEVANCE FORM

1. Fill in date sent.
 2. Fill in your name.
 3. Fill in your number; for prisoners, and parolees your prison number; for probationers your social security number or driver's license number.
 4. Prisoners fill in your housing assignment; others your mailing address.
 5. Briefly describe your grievance. Use additional blank pages or attachments if necessary. Provide enough information so that the recipient can understand the problem.
 6. Sign the form. You are cautioned that if investigation of your grievance discloses that you were untruthful or misrepresented the facts, you will be disciplined for that violation.
-
7. The form **MUST** be sent to the Warden if you are a prisoner. Parolees and probationers **MUST** send the form to the Director of Field Services. The Warden or Director of Field Services will respond within fifteen (15) working days of receipt of the form. If resolution or investigation will take longer than 15 days, you will be provided an interim reply.
 8. If the response from the Warden or the Director of Field Services does not resolve the issue satisfactorily, you may then file the grievance with the Commissioner. The Commissioner will respond within twenty (20) days with a final or interim reply.
 9. Prisoners **MUST** use request slips to attempt to resolve issues prior to submitting a grievance. Grievances will not be accepted unless it is demonstrated that request slips have not worked or unless the grievance is a bonafide emergency or life-threatening situation. Attempts to by-pass the request slip system will simply be returned without action unless the grievance clearly shows earlier attempts to use the request slip system or that the situation is a bonafide emergency or life-threatening.
 10. Grievances sent to the Commissioner by prisoners without evidence of the Warden's earlier action will be returned without action.
 11. The grievance form may be used for second level appeals of disciplinary board results at the prison if the original appeal on a request slip was rejected in whole or in part under the following rules:
 - a. ~~Only two types of appeals are grievable: (a) allegations of procedural violations stating what procedural or process errors were made; or, (b) allegations of sentence disproportionateness alleging that the sentence was excessive and stating the reasons why.~~
 - b. Questions relating to guilt or innocence or insufficiency or invalidity of evidence are NOT grievable at the second level (but they may be appealed at the first level on a request slip).
 - c. Minor board results may be appealed to the Administrator of Security on a request slip. If the Administrator's response does not satisfy the inmate he may appeal to the Warden on a grievance form. The Warden's response on a minor board is final.
 - d. Major board results may be appealed to the Warden on a request slip. If the Warden's response does not satisfy the inmate he may appeal to the Commissioner on a grievance form. The Commissioner's response on a major board is final.
 - e. Appeals must state clearly what is being appealed and the reasoning upon which the appeal is based.

EXHIBIT 7.TO: Helen Hanks

INMATE REQUEST SLIP

Submit this request to the Unit Supervisor, Security Lieutenant, or CC/CM. Your Unit Supervisor, Security Lieutenant, or CC/CM will help you resolve the issue or it will be forwarded to the appropriate person. Unit Supervisor, Security Lieutenant, or CC/CM will be forwarded to you.

TO: Unit Supervisor, Security Lieutenant, CC/CM

DATE: 10/21/2014

FROM: Bobola Matthew D. ID #: 533532
 Last Name First Name Middle Initial
NHSP Concord RTU J-12
 Facility Housing Unit Cell Work/Shift

INMATE REQUEST: On 10/7/2014 you answered my grievance to Warden Garry with:"We have referred you to ortho clinic which you have no-showed twice."

I have heard nothing from the ORTHO CLINIC since your referral. Having NEVER failed to show up for any prior appointment that I signed for, is it possible that either (a) there is another BOBOLA in the system or (b) the appointment slips are being mis-routed?

I would appreciate the follow-up referral you spoke of. The Commissioner (Chris Kenech) seems to think my medical issues "are being properly addressed" but nothing has happened.

Thank you for your time and any assistance you can provide.

(If you need more space, use plain paper.)

Matthew Bobola

Inmate Signature

TO: HELEN HANKSDATE: (10/21/2014) ✓

FROM: Unit Supervisor, Security Lieutenant or CC/CM

REMARKS: please assistFWD: B. Campbell 10/31/14 H. HanksRcvd by BCor - 11/12/14Staff Michael Shaw

Staff Signature

FROM: B. Campbell

Staff Member Name/Office

DATE: 11/12/14REMARKS: Awaiting MD Eval & RecommendationsStaff Signature

Staff Signature

Received By MB

Inmate Signature

New Hampshire Attorney General
Att: Counsel to the D.O.C.
33 Capitol Street
Concord, NH 03301-6397

Matthew D. Bobola EXHIBIT 8.
#53353
NHSP - RTU
P.O. Box 14
Concord, NH 03302-0014

1/7/15

Re. Impending Litigation

Dear Counsel to the Department of Corrections:

I have exhausted all available administrative remedies in attempting to get medical treatment from the D.O.C. for TWO separate medical problems. The 9/2/14 grievance I filed to the Warden was answered on 10/7/14 by Helen Hanks, falsely claiming that I had failed to show up for appointments as an excuse for the total lack of treatment I have experienced. (Had I failed to show up for appointments, I would have been given a Disciplinary Report and charged \$5 for the missed appointments; that never happened)

My 10/7/14 grievance to the Commissioner was answered on 10/14/14 by Chris Kench, referring to "Director Hanks" and stating "WE ARE SATISFIED THAT YOUR ISSUES ARE BEING PROPERLY HANDLED"

Since my "issues" have not been addressed AT ALL since I began complaining about them in writing, on 10/21/14 I wrote a request to Helen Hanks requesting the "follow-up referral" she mentioned. On 11/12/14, that request was answered by B. Campbell stating: "AWAITING MD EVAL & RECOMMENDATIONS"

On 11/26/14, Inmate Accounts completed the CERTIFICATE OF CUSTODIAL INSTITUTION, needed for indigent prisoners to file for federal relief.

It is now the new year. My "MD EVAL," "Recommendations," and any form of "treatment" have not been forthcoming. On 1/21/15, I will drop my federal complaint into the mailbox with a request for injunctive relief and you and your client can explain to a federal judge exactly what part of doing NOTHING constitutes "treatment."

You have until then to avoid litigation by motivating your client to, at least, make it appear that my "issues are being properly handled."

Sincerely,


Matthew D. Bobola

United States District Court, DISTRICT COURT
Clerk of Court, Room 110 DISTRICT OF N.H.
55 Pleasant Street FILED
Concord, NH 03301-3941

Matthew D. Bobola
NHSP #53353
P.O. Box 14
Concord NH 03302-0014

2015 JAN 29 A 11: 54

1/20/2015

RE: Bobola v. Wrenn, ~~15-cv-~~ 15-fp-39

Dear Clerk of Court:

Enclosed please find for immediate filing with the Court:

CIVIL COMPLAINT (5 pages)
with exhibits 1 through 8 (10 pages)

MOTION TO PROCEED IN FORMA PAUPERIS (1 page)
FINANCIAL AFFIDAVIT (2 pages)

CERTIFICATE OF CUSTODIAL INSTITUTION (1 page)
with exhibits (3 pages)

These filings should be sufficient to begin a federal civil lawsuit. As far as fees, I plan to make arrangements to have the prison send \$10 to the Court as soon as I get a docket number, said funds to be cut by institutional check sometime after 2/28/2015.

I'm not sure if that is acceptable, as I am told that the Court routinely ORDERS the prison to deduct the appropriate amount from inmate accounts for the initial payment and 20% of all deposits to pay down the filing fee thereafter. I'm amenable to either option.

Thank you for your time and considerate attention to this matter.

Very truly yours,


Matthew D. Bobola